

Transmittal FormRECEIVED  
CENTRAL FAX CENTER

NOV 04 2004

November 4, 2004

Ms. Jeanine Goldberg, Examiner, Art unit 1634  
Mr. Gary Jones, Supervisor, Art unit 1634  
US Patent & Trademark Office  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RE: Patent Application No. 09/938,013

Dear Ms. Goldberg and Mr. Jones:

This is in response to the Final Rejection of June 4, 2004. The remarks are in the subsequent pages; they include:

- Summary of the telephone interview on November 2, 2004: Jeanine Goldberg, Gary Jones, Khue Nguyen and Mai Nguyen
- Correction in Specification
- Issue of new matter
- Amendment of claim
- Issue of obviousness/non-obviousness

Thank you for your consideration.

Sincerely,



Khue Vu Nguyen

2828 University Ave., #303  
San Diego, CA 92104  
Tel. (619) 299-0449  
FAX (619) 543-7868

Patent Application # 09/938,013

Response to Final Rejection

**Summary of the telephone interview**

Date: November 2, 2004

Participants: Jeanine Goldberg, Gary Jones, Khue Nguyen and Mai Nguyen

The examiner is thanked for the phone interview.

The Office of Action of June 4, 2004 and proposed amendments were discussed. The question of how the manner in which the invention was made is related to the cited law U.S.C. 103 (b) was raised. The question of what constitutes obvious or non-obvious combination of techniques was raised. It was pointed out that currently exists only the qualitative diagnostic method of SMA at the DNA level. The current need requires a quantitative diagnostic method that permits the precise counting of the number of exons 7 and 8 in SMNT gene and SMNC gene. The search for such a method has been at the DNA level. The applicant's work is at the mRNA level: The only quantitative molecular diagnostic method at the mRNA level that allows the precise counting of the number of exons 7 and 8. It was pointed out that the examiner's cited work by Jong et al. in the Office Action is not for diagnostic purpose; it is an analysis for basic research using a semi-quantitative research method. The applicant explained how his method permits the precise counting of the number of exons 7 and 8 -- by measuring the intensity of radioactive rays emitted from the radioactive labeled probes, and by measuring the quantity of the coloration of the solution from the ELISA method.

The applicant appreciates the suggestions provided at the end of the interview for the procedures for the extension request.